

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LORINDA BROWN,

Plaintiff,

vs.

GRANDMOTHER'S, INC., a Nebraska
corporation,

Defendant.

CASE NO. 4:09-CV-03088

MOTION
TO DISMISS

COMES NOW the defendant, Grandmother's, Inc., and moves the Court for an Order pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure dismissing plaintiff's Complaint for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. The Court does not have subject matter jurisdiction to hear this case because plaintiff has failed to show injury in fact and redressability, and thus, does not have standing. Further, plaintiff's claims are moot as to the alleged barriers that Grandmother's has removed. Because removal of the remaining barriers is not readily achievable, Grandmother's is not required to make corrections. Thus, plaintiff has failed to state a claim upon which relief can be granted as to the remaining alleged barriers.

WHEREFORE, defendant prays that plaintiff's Complaint be dismissed, with prejudice, at plaintiff's cost, and for such other relief as the Court deems just and equitable.

GRANDMOTHER'S, INC., Defendant

By: /s/ Valerie S. Retelsdorf
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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2009, I electronically filed foregoing Motion to Dismiss with the Clerk of the Court using the CM/ECF system, which sent electronic notification of such filing to the following:

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s/ Valerie S. Retelsdorf

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